

REMARKS/ARGUMENTS

I. General Remarks

Please consider the application in view of the following remarks.

II. Disposition of Claims

Claims 1-22 and 24-35 are pending in this application. Claims 1, 3 and 14 are amended herein. Claim 23 has been previously canceled. New claims 36-39 have been added.

III. Allowable Claims

Applicants acknowledge with appreciation that the Examiner has advised that claims 2-5, 9-12, 16-20, 22, 25, and 29-35 are allowable over the art of record

IV. Rejection of Claims under 35 U.S.C. § 103

The Examiner has maintained rejection of claims 1, 6-8, 13, 24, 27, and 28, and has also rejected claims 14, 15, 21, 23, and 26, as obvious from U.S. Patent No. 4,777,200 to Dymond in view of U.S. Patent No. 6,006,831 to Schlemmer. The Examiner has stated:

Dymond teaches an invert emulsion (Abstract) drilling fluid (Column 1 Lines 8-14) within the scope of the present invention, which comprises copolymers having 25 to 100% of a polar hydrophobic monomer (Abstract and Column 6 Lines 40-63) such as the claimed 2-ethylhexyl acrylate (Column 7 Lines 19-23) and 0 to 20% of a hydrophilic monomer (Column 7 Lines 19-23) such as acrylic acid (Column 7 Lines 56-64) and that the copolymer may be in the form of particles coated with a hydrophilic coating (Column 7 Lines 23-33). Since the fluids may be used as drilling fluids, the use of "consisting essentially of" cannot distinguish.

Dymond, while teaching mineral oil, does not disclose expressly the use of a synthetic oil.

Schlemmer discloses a wellbore treatment fluid comprising any of aliphatic or aromatic mineral oils or synthetic hydrocarbons such as paraffins or olefins (Schlemmer Column 8 Lines 55-67.)

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to replace the mineral oil taught by Dymond with the synthetic paraffins or olefins of Schlemmer. The rationale to do so would have been the motivation provided by the teaching of Schlemmer that the mineral oils of Dymond are functional equivalents to the synthetic paraffins and olefins taught by Schlemmer (Schlemmer Column 8 Lines 55-67).

Since Dymond and Schlemmer combine to teach the same composition as claimed, one of ordinary skill in the art at the time the invention was made would have expected that the progressive gel and stress build behavior, suspension, fluid loss control, filtration control, thickening, yield and sag behavior and viscosity of the Dymond composition would inherently be the same as claimed. If there is any difference between the product of Dymond and the product of the instant claims the difference would have been minor and obvious.

Applicants respectfully traverse these rejections for the reasons stated in response to previous office actions discussing these references, for the reasons provided in Applicants' specification discussing the Dymond reference, and for the further reasons set forth below.

The affidavit of Ian Robb attached hereto reports the results of laboratory tests that show that, unlike Applicants' claimed fluids, the fluids taught in Schlemmer do not have the same rheological characteristics as Applicants' claimed fluids. The data reported in the affidavit shows that the Schlemmer fluids do not have a Gel Progression Index within the range claimed by Applicants. Therefore, the Schlemmer fluids cannot be the same as Applicants' claimed fluids. Moreover, Applicants' have demonstrated with laboratory testing described in their specification that the Dymond fluid does not achieve the advantages of Applicants' invention. Thus, the Schlemmer and Dymond teachings combined cannot yield fluids having the same rheological properties of Applicants' claimed fluids.

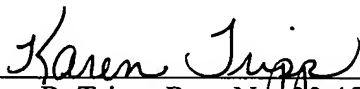
Applicants respectfully request that the Examiner reconsider his rejections. The public does not have the benefits of Applicants' invention without Applicants' invention and teachings.

SUMMARY

Applicants respectfully submit that all of the pending claims, as amended, are in condition for allowance and Applicants respectfully request the Examiner to enter the amendments and to allow the application to proceed to issue.

Respectfully submitted,

Date: September 11, 2008



Karen B. Tripp, Reg. No. 60,452
Attorney at Law
P.O. Box 1301
Houston, Texas 77251-1301
(713) 658-9323 phone
(713) 658-9410 fax
ktripp@tripplaw.com e-mail

cc: Craig W. Roddy, Esq.